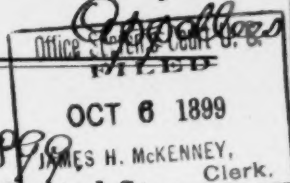


No. 368.

Reply By. of Boone & Russell for



*Filed Oct. 6, 1899*  
In the Supreme Court of the United States

OCTOBER TERM, 1899.

No. 368.

THE BIENVILLE WATER SUPPLY COMPANY,  
Appellant,

VS.

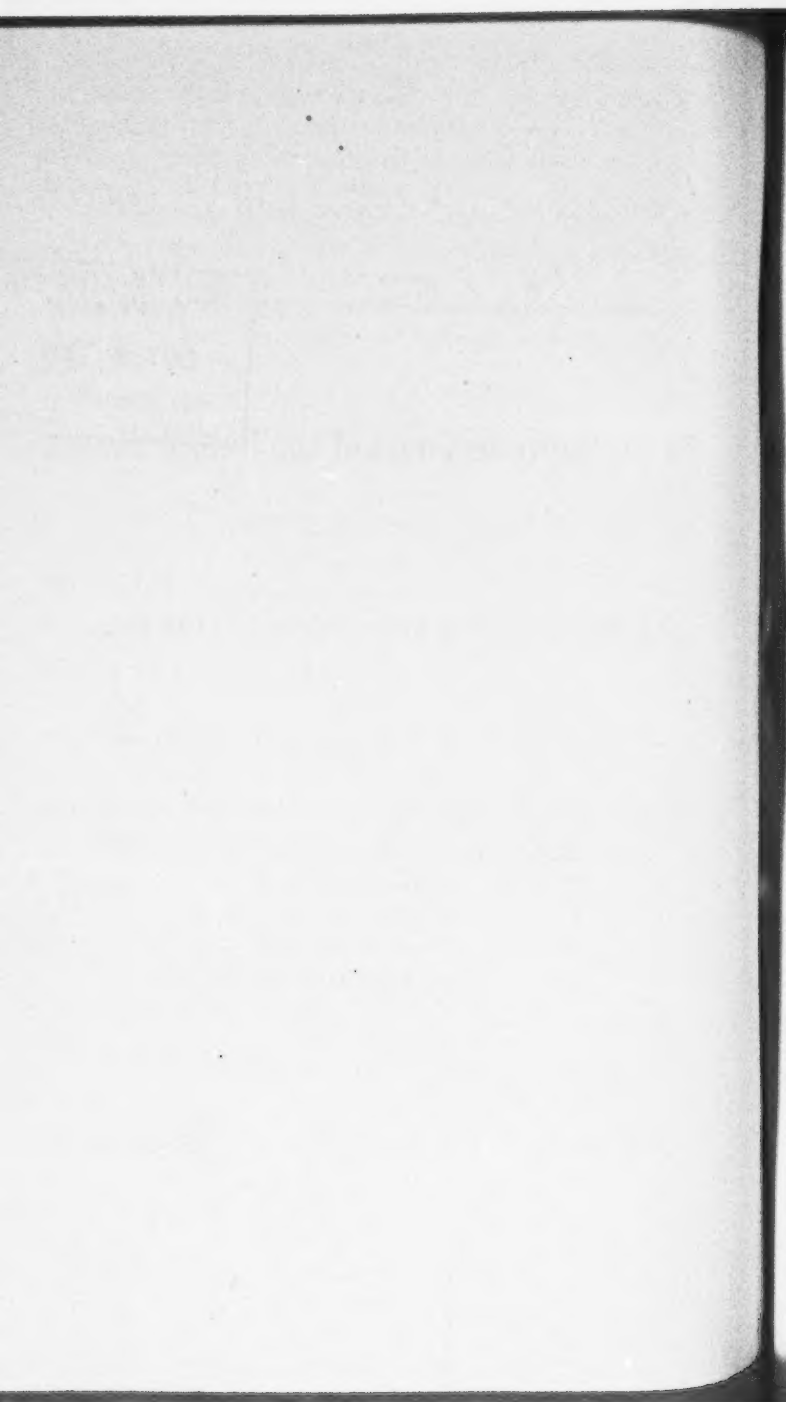
THE CITY OF MOBILE, et al., Appellees.

BRIEF OF APPELLEES IN REPLY TO BRIEF OF  
APPELLANT, UPON MOTION TO DISMISS  
OR AFFIRM.

B. B. BOONE,

E. L. RUSSELL,

Attorneys for Appellees.



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## BRIEF OF APPELLEES IN REPLY TO BRIEF OF APPELLANT, UPON MOTION TO DISMISS OR AFFIRM.

In reply to the contention of the appellant's counsel as set out at the bottom of page 4 of their brief, that the City of Mobile had no constitutional power to operate the Stein or Mobile City Water Works, we beg leave to submit the following :

The right to acquire the Stein Water Works was conferred upon the City of Mobile by the General Assembly of Alabama by act of January 7th, 1841, ratifying a certain contract entered into between Albert Stein and the City of Mobile, passed upon by this Court in *Stein vs. Bienville Water Supply Company*, 141 United States, 67. This act of the General Assembly was passed thirty-four years before the adoption of the present Constitution of Alabama of 1875, and vested by contract certain rights in the City of Mobile which cannot be divested by any change in the organic law of the State, even if the sections of the present constitution of Alabama have, which we deny, the effect claimed by appellant's counsel.

See the decision of Chief Justice Field in *Grogan vs. San Francisco*, 18 California, 590-612.

*Town of Pawlet vs. Clark*, 9 Cranch, 292; *Mount Hope Cemetery vs. City of Boston*, 158 Mass., 509; same case, 35 American State Reports, 515, and elaborate note by A. C. Freeman; *New Orleans Water Works Company vs. Rivers*, 115 United States, 674.

All of which is respectfully submitted.

B. B. BOONE,

E. L. RUSSELL,

Attorneys for Appellees.